

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Fig. 6 only. This sheet, which includes Figs. 5a, 5b, and 6, replaces the original sheet including Figs. 5a, 5b, and 6. In Fig. 6, apparatus 32 has been changed to the numeral 33.

Attachment:      Replacement Sheet  
                         Annotated Sheet Showing Changes

**REMARKS**

Claims 1-23 are pending in the present application. With the Office Action of October 19, claims 6 and 12 stand objected to for informalities, claim 11 is rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Claims 1, 5-6, 8-9, and 11 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 4,902,005 to McNeill. ("McNeil"). Claims 1-4, 7, 9, 11-16, 18, and 20-23 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 4,247,097 to Schwartz. ("Schwartz"). Additionally, claims 1-4, 6, 9, 11-16, 18, and 20-23 are rejected under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent Number 1,053,204 to Morrison ("Morrison") and further in view of U.S. Patent Number 5,768,710 to Williams ("Williams"). Further, claims 10, 17 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over McNeil in view of claim 1 above and further in view of Morrison. Claims 1-4, 6, 9, 11-16, 18, and 20-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 220,281 to Glover ("Glover") in view of Williams. Claims 24 and 25 have been added as new claims by this amendment. Applicant traverses the rejections and respectfully requests reconsideration based on the amendments to the application indicated above.

By this amendment, applicant has modified the drawings, specification, and claims. Modifications to Fig. 6 of the drawings have been included to correct an improper numerical reference. Modifications to paragraphs 17, 22, 24, and 31 of the specification have been included to change improper numerical references, to clarify language in the description of the disclosure, and to more clear set forth the applicant's invention. Changes in claims have been made to correct typographical errors, and to more clearly define the applicant's invention.

Applicant's invention is directed to an exercise device comprising a garment having a first end and a second end. The exercise device further includes a member disposed between the first end and second end that is adapted to be flexibly positioned around a body part and a plurality of pockets uniformly disposed around the member adapted to removably hold weights of varying amounts. The first end has a ventilated area comprising an open area free of material to allow direct exposure of the environment to the handle to assist in cooling the interior of the member and the body part during use of the device. The second area has a body area which is configured to constrict around a body part when the device is in use. A handle connects to the body part and fastens to the member near the first end to allow the body part to maintain a contact between the body part and the member while the body part performs exercise movements.

## **1. Response to Objections to Claims**

The Examiner objects to informalities in Claims 6 and 12.

Claim 12 has been amended to correct the spelling error. Claim 6 has been cancelled. Applicant respectfully requests that the objections to the claims be removed.

## **2. Response to Rejections under 35 U.S.C. § 112, second paragraph:**

a. The Examiner has rejected Claims 11 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 11 have been amended to overcome the Examiner's comment that claim 11 appears to positively recite human body parts of which such a recitation is nonstatutory subject matter. Claims 1 and 11 now more clearly set forth Applicant's invention with respect to the orientation of the body area and member on the device to a user's body part. Paragraphs 00017

and 00022 of the specification have additionally been amended to more clearly set forth applicant's invention. No new matter has been added. Therefore, the applicant respectfully requests that the indefiniteness rejection of Claim 11 be removed.

### **3. Response to Rejections under 35 U.S.C. § 102(b)**

b. The Examiner has rejected Claims 1, 5-6, 8-9, and 11 as being anticipated by McNeill. McNeill discloses a water exercise device comprising a main body having a fan-shaped intermediate section, and a pair of tubular sections at opposite margins of the fan-shaped intermediate section. The McNeill reference further includes inner and outer open ends in the tubular sections for receiving hands and forearms of a user when extended through the inner ends of the tubular sections. The McNeill reference does not disclose a garment having a first end with a ventilated area comprising an open area free of material nor does it disclose a plurality of pockets uniformly disposed about a member adapted to removably hold weights, both of which are specifically recited in Applicant's amended claim 1. Applicant's claimed invention includes at least one pocket uniformly disposed around a member to removably hold a plurality of weights. Additionally, the claimed invention includes a ventilation area to allow direct exposure to the environment and to assist in cooling the interior of the member and the body part during use of the claimed device. For these reasons, Applicant submits that Claim 1, as amended, is allowable over the applied reference.

Applicant submits that Claim 1 and its dependent claims, including claims 8, 9, and 11, as amended, are now allowable in view of the McNeill reference. Claims 5 and 6 have been cancelled. Support for the amendments to Claim 1 can be found in Paragraph 0017, lines 1-6, and Paragraph 00018, lines 1-5 of the specification.

c. The Examiner has rejected Claims 1-4, 7, 9, 11-16, 18, and 20-23 as being anticipated by Schwartz. Schwartz discloses a weight glove having front and back palm, wrist, and finger enclosing pieces where the front and back pieces extend over a user's wrist and remain open to receive a wearer's hand. The Schwartz reference further includes a pocket in a front enclosing piece removably receiving a palm weight and a first pocket on the back piece removably receiving at least one flexible conforming weight. The Schwartz reference does not disclose a garment having a first end with a ventilated area comprising an open area free of material, nor does the Schwartz reference disclose a handle fastened within a member near the first end which allows contact to be maintained between the body part and the member while the body part performs exercise movements, both of which are specifically recited in Applicant's amended claims 1 and 12. Applicant's claimed invention includes a handle fastened within the member near the first end, wherein the handle is adapted to connect with the body part to maintain contact between the body part and the member while the body part performs exercises. Additionally, the invention discloses a ventilation area to allow direct exposure to the environment and to assist in cooling the interior of the member and the body part during use of the claimed device. Furthermore, claim 18 as amended discloses a method of using the claimed device including ventilating the body part and connecting the body part with a member by the handle, neither of which are disclosed in Schwartz. For these reasons, Applicant submits that claims 1, 12, and 18 as amended, are allowable over the applied reference.

Applicant urges that claims 1, 12 and their dependent claims, including claims 3-4, 7, 9, 11, and 13-16 are now allowable, as amended. Additionally, applicant submits that Claim 18 and its dependent claims, including claims 21 and 23 are now allowable. Claims 2, 19, 20, and

22 have been cancelled. Support for the amendments to Claim 1, 12 and 18 can be found in Paragraph 0017, lines 1-6, and the entirety of Paragraphs 00021 and 22, of the specification.

#### **4. Response to Rejections under 35 U.S.C. § 103(a)**

d. The Examiner has rejected Claims 1-4, 6, 9, 11-16, 18 and 20-23 as being unpatentable over Morrison in view of Williams. With respect to independent claims 1 and 12 as amended, Morrison teaches a hygienic mitten which comprises an inner sack or lining and an outer cover as well as a cross bar held at its ends within the inner member to allow a user to grasp the bar by hand inside the mitten. Williams teaches an exercise device comprising a weighted pair of gloves with a wrist strap. Williams further teaches a permanently affixed weighted section on the back-hand side of the glove, a hook and pile attachment strip on the palm of the glove associated with a detachable cylindrical weight, and paired contoured weights surround each finger and thumb sleeve. Additionally, the digit sleeves are opened to expose the individual's fingertips. Morrison does not teach or suggest to one skilled in the art the modification of the Williams weighted glove construction to incorporate the cross-bar for a user's hand as disclosed in the Morrison reference. Similarly, Williams does not teach or suggest the modification of the hygienic mitten to include pockets for weight elements while the mitten device is in use. Furthermore, neither of Morrison or Williams teach or suggest a ventilation area comprised of an open area which allows direct exposure of a body part to the environment while exercising as disclosed in Applicant's invention, and specifically recited in the amended independent claims of the present invention.

There is nothing disclosed in either Morrison or Williams that would teach or suggest to one skilled in the art the modification suggested by the Examiner. The fact that neither of

Morrison and Williams provides any such capabilities suggests that the advantages of providing such capabilities are not obvious to one of ordinary skill in the art. Additionally, claims 3-4, 9, and 11 depend from claim 1 directly or indirectly, and are allowable for the reasons set forth above in support of the allowance of independent claim 1. Applicant further requests that the obviousness rejection of claim 12 be removed. Additionally, claims 13-16 depend from claim 12 and are allowable for the reasons set forth above in support of the allowance of independent claim 12. No new matter has been added.

With respect to method claim 18, Morrison again teaches a hygienic mitten system with an inner sack or lining, an outer cover, and a cross bar. Williams teaches an exercise device comprising a weighted pair of gloves with a wrist strap. Williams further teaches a permanently affixed weighted section on the back-hand side of the glove, a hook and pile attachment strip on the palm of the glove associated with a detachable cylindrical weight, and paired contoured weights surround each finger and thumb sleeve. Additionally, the digit sleeves are opened to expose the individual's fingertips. Similarly, Williams does not teach or suggest to one skilled in the art the modification of the Morrison hygienic mitten construction to include pockets for weight elements as disclosed in the Williams reference or a method of using such a device. Morrison does not teach or suggest the modification of the weighted glove to include a cross bar or handle for a user's body part or a method of using such a device. There is nothing disclosed in either Williams or Morrison that would teach or suggest to one skilled in the art the modification suggested by the Examiner. Therefore, the applicant respectfully requests that the obviousness rejection of claim 18 be removed. Additionally, claims 21 and 23 depend from claim 18 and are allowable for the reasons set forth above in support of the allowance of independent claim 18.

Claims 2, 6, 19, 20, and 22 have been cancelled.

e. With respect to claims 10, 17, and 19, the Examiner has rejected these claims as being unpatentable over McNeil in view of Morrison. Claim 19 is cancelled. McNeil does not teach or suggest a handle configured to torsionally resist movement with respect to a member as specifically recited in dependent claim 10. Further, Morrison discloses a hygienic mitten having an inner lining, an outer cover, and a cross-bar, but does not teach a cross-bar configured to move between a horizontal and vertical position as disclosed in Applicant's invention in dependent claims 16, 17, and new claim 25. Therefore, nothing in McNeil or Morrison teaches or suggests to one skilled in the art the modification of references as suggested by the Examiner. Applicant respectfully requests that the obviousness rejection to claims 10 and 17 be removed.

f. The Examiner has rejected Claims 1-4, 6, 9, 11-16, 18 and 20-23 as being unpatentable over Glover in view of Williams. With respect to independent claims 1 and 12 as amended, Glover teaches a boxing glove which comprises an inner material and an outer cover as well as a flexible handle to allow a user to grasp the handle when a hand is inserted into the glove. Williams teaches an exercise device comprising a weighted pair of gloves with a wrist strap. Williams further teaches a permanently affixed weighted section on the back-hand side of the glove, a hook and pile attachment strip on the palm of the glove associated with a detachable cylindrical weight, and paired contoured weights surrounding each finger and thumb sleeve. Additionally, the digit sleeves are opened to expose the individual's fingertips. Glover does not teach or suggest to one skilled in the art the modification of the Williams weighted glove construction to incorporate a handle for a user's hand when inserted in the glove as disclosed in the Glover reference. Similarly, Williams does not teach or suggest the modification of the boxing glove to include pockets for weight elements while the device is in use. Furthermore,



neither of Glover or Williams teach or suggest a ventilation area comprised of an open area which allows direct exposure of a body part to the environment while exercising as disclosed in Applicant's invention. There is nothing disclosed in either Glover or Williams that would teach or suggest to one skilled in the art the modification suggested by the Examiner. The fact that neither of Glover and Williams provides any such capabilities suggests that the advantages of providing such capabilities are not obvious to one of ordinary skill in the art. Additionally, claims 3-4, 9, and 11 depend from claim 1 directly or indirectly, and are allowable for the reasons set forth above in support of the allowance of independent claim 1. The applicant further requests that the obviousness rejection of claim 12 be removed. Additionally, claims 13-16 depend from claim 12 and are allowable for the reasons set forth above in support of the allowance of independent claim 12.

With respect to method claim 18, Glover again teaches a boxing glove which comprises an inner material and an outer cover as well as a flexible handle to allow a user to grasp the handle when a hand is inserted into the glove. Williams teaches an exercise device comprising a weighted pair of gloves with a wrist strap. Williams further teaches a permanently affixed weighted section on the back-hand side of the glove, a hook and pile attachment strip on the palm of the glove associated with a detachable cylindrical weight, and paired contoured weights surround each finger and thumb sleeve. Additionally, the digit sleeves are opened to expose the individual's fingertips. Glover does not teach or suggest to one skilled in the art the modification of the Williams weighted glove construction to incorporate a handle for a user's hand when inserted in the glove as disclosed in the Glover reference or a method of using such a device. Similarly, Williams does not teach or suggest the modification of the boxing glove to include pockets for weight elements while the device is in use or a method of using such a device.

Furthermore, neither of Glover or Williams teach or suggest a ventilation area comprised of an open area which allows direct exposure of a body part to the environment while exercising as disclosed in Applicant's invention. There is nothing disclosed in either Glover or Morrison that would teach or suggest to one skilled in the art the modification suggested by the Examiner. Therefore, the applicant respectfully requests that the obviousness rejection of claim 18 be removed. Additionally, claims 21 and 23 depend from claim 18 and are allowable for the reasons set forth above in support of the allowance of independent claim 18.

Claims 2, 6, 19, 20, and 22 have been cancelled.

## **Conclusion**

For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and allowance of claims 1, 3-4, 7-18, 21, and 23-25. Applicant's attorney has reviewed the prior art made of record in this case, and agrees with the Examiner that such art is less applicable to Applicant's invention than the applied art. This paper is timely filed. The Commissioner is authorized to charge any deficiencies to deposit account 190011 of Reed Smith Sachnoff & Weaver.

If there are any matters that can be discussed by telephone to further the prosecution of this application, Applicants respectfully request that the Examiner call Applicants' attorney at the number listed below.

Respectfully submitted,

REED SMITH  
SACHNOFF & WEAVER

Date: April 19, 2007

By: Howard Rockman  
Howard Rockman  
Registration No. 22,190  
Attorney for Applicant

10 South Wacker Drive, 40<sup>th</sup> Floor  
Chicago, IL 60606-7507  
Telephone: (312) 207-1000  
Facsimile: (312) 207-6400